



Bart L. Graham  
Commissioner

State of Georgia  
**Department of Revenue**  
Administrative Division – Tax Law & Policy Section  
Suite 15311  
1800 Century Blvd.  
Atlanta, Georgia 30345-3205  
(404) 417-6649

Lora Butler  
Director

March 29, 2006

Honorable Sewell R. Brumby  
Office of the Legislative Counsel  
Room 316 State Capitol  
Atlanta, Georgia 30334

**RE: Notice of Proposed Revenue Rules:**

560-7-3-.06 "Taxation of Corporations. Amended."

560-7-4-.01 "Net Taxable Income (Individual). Amended."

560-7-3-.13 "Consolidated Returns"

Dear Mr. Brumby:

Enclosed please find a copy of the Department of Revenue's above referenced proposed amended Revenue Rules along with the related notice and synopses. If you have any questions, please contact me at (404) 417-2399.

Sincerely,

Gary B. Truitt  
Tax Policy Analyst

Enc.



**Bart L. Graham**  
Commissioner

**State of Georgia**  
**Department of Revenue**

Suite 15300  
1800 Century Boulevard  
Atlanta, Georgia 30345  
(404) 417-2100

**NOTICE**

- RE: (I) Amendment of current Rule 560-7-3-.06 "Taxation of Corporations. Amended."**
- (II) Amendment of current Rule 560-7-3-.13 "Consolidated Returns"**
- (III) Amendment of current Rule 560-7-4-.01 "Net Taxable Income (Individual). Amended."**

**TO ALL INTERESTED PERSONS AND PARTIES:**

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Chapter 560-7-3 of the Rules and Regulations of the State of Georgia by amending current Rule 560-7-3-.06, entitled "Taxation of Corporations. Amended." and amending current Rule 560-7-3-.13, entitled "Consolidated Returns".

The Department also proposes to amend Chapter 560-7-4 by amending current Rule 560-7-4-.01, entitled "Net Taxable Income (Individual). Amended."

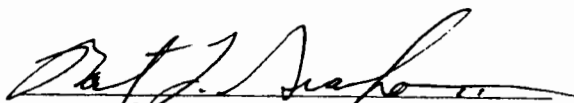
Attached with this notice are the exact copies and synopses of the proposed Rules. The proposed Rules are being adopted under the authority of O.C.G.A. §§ 48-2-12, 48-7-21, and 48-7-27.

The Department of Revenue shall consider the adoption of the above referenced Rules at 10:00 a.m. on May 15, 2006 in Suite 15210 of the Department's headquarters at the below address.

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The Department must receive all comments regarding the above referenced proposed Rules from interested persons and parties no later than 10:00 a.m. May 15, 2006. Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. N.E., Suite 15300, Atlanta, GA 30345-3205. Electronic comments must be sent to [regcomments@dor.ga.gov](mailto:regcomments@dor.ga.gov). Facsimile comments must be sent to (404) 417-6651. **Please reference "Notice Number IT-2006-3" on all comments.**

Dated: March 29, 2006



Bart L. Graham  
Commissioner  
Georgia Department of Revenue

**An Equal Opportunity Employer**

**RULES  
OF  
DEPARTMENT OF REVENUE  
INCOME TAX DIVISION**

**CHAPTER 560-7-3  
SUBSTANTIVE REGULATIONS**

**TABLE OF CONTENTS**

**560-7-3-.06 Taxation of Corporations. Amended.**

**560-7-3-.06 Taxation of Corporations. Amended.**

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**(5) Net Operating Losses.**

(a) Net operating losses shall be treated as provided in paragraph ~~(40)~~ (10.1) of subsection (b) of O.C.G.A. § 48-7-21.

(b) In the event a taxpayer is entitled to a refund of income taxes by reason of a net operating loss carryback under paragraph ~~(40)~~ (10.1) of subsection (b) of O.C.G.A. § 48-7-21, the taxpayer may file an amended return within the time period prescribed by O.C.G.A. § 48-7-21 or alternatively may file an “application for a tentative carryback adjustment of the taxes” within a period of twelve (12) months following the end of the taxable year of the net operating loss. The application shall be in such form as the Commissioner shall prescribe. Such application shall not constitute a claim for credit or refund for purposes of O.C.G.A. § 48-2-35. Within a period of ninety (90) days from the last day of the month in which the application for a tentative carryback adjustment is filed, the Commissioner shall make, to the extent he or she deems practicable in such period, a limited examination of the application

### **Chapter 560-7-3**

### **Substantive Regulations**

to determine the amount of tax decrease attributable to such carryback adjustment upon the basis of the application and examination. The Commissioner may disallow, without further action, any application which contains errors of computation which he or she deems cannot be corrected within such ninety (90) day period or which contains material omissions. The decrease so determined shall be applied against any unpaid amount of the tax and the remainder shall, within such ninety (90) day period, be either credited against any income tax then due from the taxpayer, or refunded to the taxpayer. Any such credit or refund made within such ninety (90) day period shall be without interest. If the Commissioner should determine that the amount credited or refunded under this paragraph is in excess of the amount properly attributable to the carryback adjustment, he or she may assess the amount of the excess as a deficiency as if it were due to a mathematical error appearing on the face of a return.

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Authority: O.C.G.A. §§ 48-2-12 and 48-7-21

**RULES  
OF  
DEPARTMENT OF REVENUE  
INCOME TAX DIVISION**

**CHAPTER 560-7-3  
SUBSTANTIVE REGULATIONS**

**TABLE OF CONTENTS**

**560-7-3-.13 Consolidated Returns.**

**560-7-3-.13 Consolidated Returns.**

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**(8) Consolidated Return Net Operating Loss Deduction.** A consolidated Georgia net operating loss carryforward or carryback shall be allowed as a deduction on the Georgia consolidated return of an affiliated group under the following rules:

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(o) In the event a taxpayer is entitled to a refund of income taxes by reason of a net operating loss carryback under paragraph ~~(10)~~(10.1) of subsection (b) of O.C.G.A. § 48-7-21, the taxpayer may file an amended return within the time period prescribed by O.C.G.A. § 48-7-21 or alternatively may file an “application for a tentative carryback adjustment of the taxes” within a period of twelve (12) months following the end of the taxable year of the net operating loss. The application shall be in such form as the Commissioner shall prescribe. Such application shall not constitute a claim for credit or refund for purposes of O.C.G.A. § 48-2-35.

Within a period of ninety (90) days from the last day of the month in which the application for a tentative carryback adjustment is filed, the Commissioner shall make, to the extent he or she deems practicable in such period, a limited examination of the application to determine the amount of tax decrease attributable to such carryback adjustment upon the basis of the application and examination. The Commissioner may disallow, without further action, any application which contains errors of computation which he or she deems cannot be corrected within such ninety (90) day period or which contains material omissions. The decrease so determined shall be applied against any unpaid amount of the tax and the remainder shall, within such ninety (90) day period, be either credited against any income tax then due from the taxpayer, or refunded to the taxpayer. Any such credit or refund made within such ninety (90) day period shall be without interest. If the Commissioner should determine that the amount credited or refunded under this paragraph is in excess of the amount properly attributable to the carryback adjustment, he or she may assess the amount of the excess as a deficiency as if it were due to a mathematical error appearing on the face of a return.

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Authority: O.C.G.A. §§ 48-2-12 and 48-7-21.

**RULES  
OF  
DEPARTMENT OF REVENUE  
INCOME TAX DIVISION**

**CHAPTER 560-7-4  
NET TAXABLE INCOME (INDIVIDUAL)**

**TABLE OF CONTENTS**

**560-7-4-.01 Net Taxable Income (Individual). Amended.**

**560-7-4-.01 Net Taxable Income (Individual). Amended.**

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(3) Net Operating Losses

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(f) In the event the taxpayer is entitled to a refund of income taxes by reason of a net operating loss carryback, an application for tentative carryback adjustment or claim for refund will be filed in accordance with O.C.G.A. § ~~48-7-21(b)(10)(E)~~ 48-7-21(b)(10.1)(E). The taxpayer may file an amended return within the time period prescribed in O.G.C.A. § ~~48-7-21(b)(10)(E)~~ 48-7-21(b)(10.1)(E) or alternatively may file an “application for a tentative carryback adjustment of the taxes” within a period of twelve (12) months following the end of the taxable year of the net operating loss. The application shall be in such form as the Commissioner shall prescribe. Such application shall not constitute a claim for credit or refund for purposes of O.C.G.A. § 48-2-35. Within a period of ninety (90) days from the last day of the month in which the application for a tentative carryback adjustment is filed, the Commissioner shall make, to the extent he or she deems practicable in such period, a limited examination of the application to determine the amount of tax decrease attributable to such carryback adjustment upon the basis of the application and the examination. The



Commissioner may disallow without further action any application which contains errors of computation which he or she deems cannot be corrected within such ninety (90) day period or which contains material omissions. The decrease so determined shall be applied against any unpaid amount of the tax and the remainder shall, within such ninety (90) day period, be either credited against any income tax then due from the taxpayer, or refunded to the taxpayer. Any such credit or refund made within such ninety (90) day period shall be without interest. If the Commissioner should determine that the amount credited or refunded under this paragraph is in excess of the amount properly attributable to the carryback adjustment, he or she may assess the amount of the excess as a deficiency as if it were due to a mathematical error appearing on the face of a return.

(g) The provisions of Sections 108, 381, 382, and 384 of the Internal Revenue Code of 1986, as amended, as they relate to net operating losses also apply for Georgia purposes. These shall be applied as provided in O.C.G.A. § ~~48-7-21(b)(10)(D)~~ 48-7-21(b)(10.1)(D) and the regulations thereunder.

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Authority: O.C.G.A. §§ 48-2-12 and 48-7-27